

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

ASHLEY SHAKIM, :

Plaintiff, :

- against - :

DEPARTMENT OF CORRECTION et al., :

Defendants. :

- - - - -x

ORDER

07 Civ. 2827 (DC)

CHIN, District Judge

Pro se plaintiff Ashley Shakim commenced this prisoner § 1983 action on April 9, 2007. On September 13, 2007, I issued an order, advising plaintiff that if he did not file an affidavit of service with the Court attesting to service of the summons and complaint on the defendant by October 15, 2007, the above-captioned action would be dismissed without prejudice. Defendants were subsequently served.

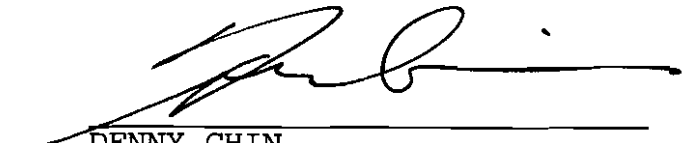
On February 15, 2008, defendants informed the Court that they intended to file a motion for summary judgment. I set a briefing schedule and directed them to file their motion by March 14, 2008. On March 7, 2008, defendants' counsel informed me that plaintiff had been released from prison but had not provided the Court with his current address. In light of defendants' inability to contact plaintiff, I stayed the briefing schedule for defendants' summary judgment motion and issued an order stating that the case would be dismissed for failure to prosecute if plaintiff failed to provide the Pro Se office with a

current address within 30 days. By letter dated April 22, 2008, defendants informed the Court that plaintiff had yet to update his address and that they were still unable to contact him.

A district court has the discretion to dismiss a case for a lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b). Lukensow v. Harley Cars of N.Y., 124 F.R.D. 64, 66 (S.D.N.Y. 1989) (citing Harding v. Fed. Reserve Bank of N.Y., 707 F.2d 46 (2d Cir. 1983)). Five months have elapsed since the Court's order and still plaintiff has yet to update his address or contact the Court. Accordingly, the case is dismissed for failure to prosecute.

SO ORDERED.

Dated: New York, New York
August 25, 2008


DENNY CHIN
United States District Judge